

REMARKS

By way of summary, Claims 1-13, 15-22, 24-36, and 39-78 were pending in this application. By this Amendment, Claims 1, 34, 41, 72, 77, and 78 have been amended and Claims 4 and 44 have been canceled. Accordingly, Claims 1-13, 15-22, 24-36, and 39-78 are currently pending. These amendments are made without prejudice or disclaimer, and Applicant respectfully reserves the right to pursue the original, previously presented, or canceled subject matter in continuing applications. Applicant also respectfully submits that no new matter has been added to the application by these amendments. Support for the amendments and new claims can be found, for example, in the originally filed claims, and on page 17 of the originally filed specification. Applicant respectfully submits that the claims are in condition for allowance for at least the following reasons.

Claim Rejections under 35 U.S.C. § 112

The Office Action rejected Claims 1-5, 7-13, 15-17, 19-22, 24-36, 39-45, 47-56, and 58-78 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly pointing out and distinctly claiming the subject matter which Applicant regards as the invention. Although Applicant respectfully disagrees with the office actions suggestion that the term “about” used in connection with a structural dimension renders the claim indefinite. Nevertheless, in an effort to expedite allowance of the present application, Applicant has amended Claims 1, 34, 41, 72, 77, and 78 to remove the stated term. These amendments are made without prejudice or disclaimer, and Applicant respectfully reserves the right to pursue the original and previously pending subject matter in a continuing application. Applicant respectfully submits the claims are now in condition for allowance and respectfully request withdrawal of the § 112 rejection.

Claim Rejections under 35 U.S.C. § 103

All pending claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over individual references and combinations of teachings from references, which include U.S. Patent No. 6,451,050 to Rudakov et al. ("Rudakov"), U.S. Publication No. 2003/0124279 to Sridharan ("Sridharan"), and U.S. Patent No. 5,948,018 to Dereume et al. ("Dereume").

Each of the rejected independent Claims, namely Claims 1, 34, 41, 72, 77, and 78 feature a membrane that has a substantially uniform porosity over a length extending from the distal end of the membrane to the proximal end of the membrane, and a distance between adjacent pores of the membrane being less than 75 microns, wherein the membrane obstructs blood flow from a vessel into an aneurysm such that blood flow into the aneurysm is impeded, and permits blood flow through pores in the membrane and into branch vessels, perforators, and/or microscopic branches so as not to inhibit blood supply functions of the perforators and/or microscopic branches. Applicant has amended the claims and respectfully submits that the claims are now in condition for allowance over the cited references, alone or in combination, because the cited references do not teach or suggest all the recitations of the pending claims.

Rudakov

Rudakov is directed to a stent graft for implantation in a vessel, but Applicant respectfully submits that Rudakov fails to teach or suggest a distance between adjacent pores of a membrane that is less than about 75 microns, in addition to a membrane that has a substantially uniform porosity over a length extending from a distal end of the membrane to a proximal end of the membrane, wherein the membrane obstructs blood flow from a vessel into an aneurysm such that blood flow into the aneurysm is impeded, and

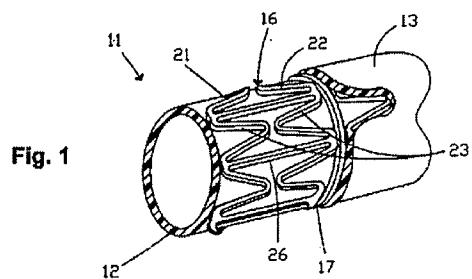


Fig. 1

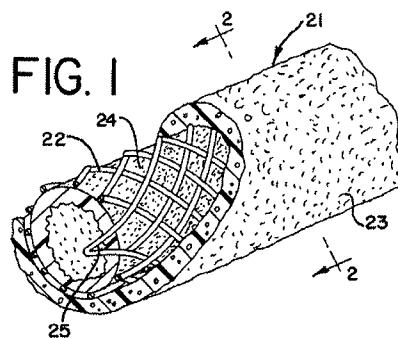
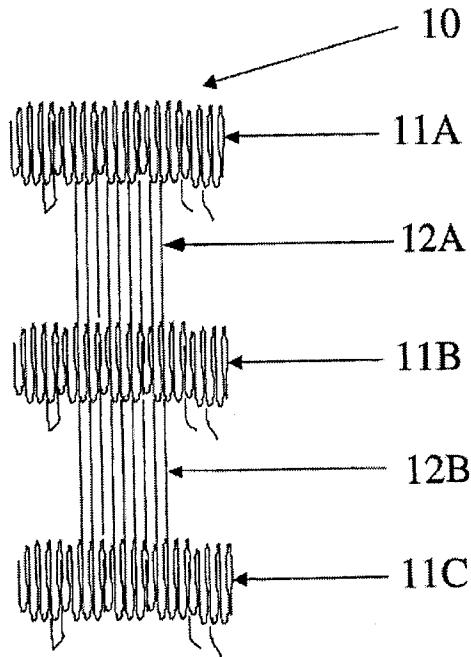
permits blood flow through pores in the membrane and into perforator vessels so as not to inhibit blood supply functions of the perforator vessels. Rudakov also fails to teach or suggest a membrane with the recited thicknesses recited in the claims.

Sridharan

Sridharan method that forms a semi-crystalline polymer material into a lamella. The lamella is stretched into a polymer having a node of folded lamella and a fibril orientation. Figure 1 of Sridharan is reproduced herein for reference. Applicant respectfully submits that Sridharan fails to teach or suggest, alone or in combination with the other cited references, at least a distance between adjacent pores of a membrane that is less than about 75 microns in conjunction with the other recitations of the amended claims. Additionally, Applicant respectfully submits that Sridharan fails to teach or suggest a membrane having the thicknesses recited in the presently pending claims.

Derueme

Derueme is directed to expandable, supportive endoluminal grafts. Derueme does not, however, teach or even suggest that a distance between pores of the grafts is no more than about 75 μm . Accordingly, Applicant respectfully submits that Derueme fails to teach or suggest, alone or in combination with the other cited references, a device that obstructs blood flow from a vessel into an aneurysm, such that blood flow into the aneurysm is impeded, and



that permits blood flow through pores in the membrane and into perforator vessels so as not to inhibit blood supply functions of the perforators vessels, as recited in the rejected independent claims. Applicant also respectfully submits that Derueme fails to teach or suggest a membrane having the thicknesses recited in the presently pending claims.

Claim 1

Claim 1 now recites, in part, “the membrane having a width that is less than 0.001 inches.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 1.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width.” The specification specifies that this can be used in order to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations. For example, while Rudakov describes a sleeve on the stent graft, Rudakov states that the “material utilized for the inner and outer sleeves [are] quite thin as for example ranging from 0.001” to 0.008” and preferably from 0.002” to 0.003”.” Col. 2: 23–25. Claim 1 recites that the membrane is less than 0.001”. Accordingly, Applicant respectfully submits that Claim 1 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 1 and that Claim 1 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 1.

Claim 34

Claim 34 now recites, in part, “the membrane having a thickness that is less than 0.001 inches and a durometer of 75A Shore.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 34.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width,” and where the “durometer (Shore) is 75A.” The specification specifies that the membrane is configured to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations. Accordingly, Applicant respectfully submits that Claim 34 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 34 and that Claim 34 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 34.

Claim 41

Claim 41 now recites, in part, “the membrane having a thickness that is less than 0.001 inches and having a tensile strength of 7500 psi.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 41.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width,” and where the “tensile strength is 7500 psi.” The specification specifies that the membrane is

configured to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations. Accordingly, Applicant respectfully submits that Claim 41 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 41 and that Claim 41 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 41.

Claim 72

Claim 72 now recites, in part, “a thickness of the membrane being less than 0.001 inches.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 72.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width.” The specification specifies that the membrane is configured to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations. Accordingly, Applicant respectfully submits that Claim 72 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 72 and that Claim 72 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 72.

Claim 77

Claim 77 now recites, in part, that the membrane has “a thickness that is less than 0.001 inches.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 77.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width.” The specification specifies that the membrane is configured to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations. Accordingly, Applicant respectfully submits that Claim 77 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 77 and that Claim 77 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 77.

Claim 78

Claim 78 now recites, in part, that the membrane has “a thickness that is less than 0.001 inches.” Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest this recitation in addition to other recitations of Claim 78.

As explained in Paragraphs [0115] and [0116] of the specification, some embodiments provide that “the membrane 203 is made from a thin film that does not exceed 0.001” in width.” The specification specifies that the membrane is configured to reduce the likelihood of a part of the membrane from blocking perforators. Applicant respectfully submits that the cited references fail to teach or suggest, alone or in combination, at least these recitations.

Accordingly, Applicant respectfully submits that Claim 78 is now in condition for allowance over the cited references.

Accordingly, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest all the features of the amended Claim 78 and that Claim 78 is in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 78.

Dependent Claims

Dependent Claims 2–3, 5–13, 15–22, 24–33, 35–36, and 39–40, 42–43, 45–71, and 73–76 depend from amended independent Claims 1, 34, 41, 72, 77, and 78, and Applicant respectfully submits that these dependent claims are also in condition for allowance over the cited references for at least the same reasons set forth above with respect to the independent claims, in addition to the patentable subject matter recited in each of these dependent claims. Therefore, Applicant respectfully requests withdrawal of the obviousness rejections of these dependent claims.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable action on this application. If any questions remain, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully reserves the right to traverse any of the Examiner's rejections or assertions, even if not discussed herein. Applicant respectfully reserves the right to challenge later whether any of the cited references are prior art. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter. Applicant reserves the right to contest later whether a proper reason exists to combine prior art references.

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Respectfully submitted,

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